

### **REMARKS**

Applicants thank the Examiner for the very thorough consideration given the present application.

Claims 6-12 are now present in this application. Claims 6 and 8 are independent.

Claims 6-8, 11 and 12 have been amended. No new matter is involved. Reconsideration of this application, as amended, is respectfully requested.

#### Withdrawal of Premature Final Rejection and Entry of this Amendment

The improper restriction requirement has been withdrawn and claims 6 and 7 have been examined on their merits. Although the Office Action states that Applicants' remarks traversing the restriction requirement were not persuasive, the Office Action fails to address the merits of those remarks. Applicants respectfully submit that the restriction requirement was not proper because the two groups of inventions referenced in the restriction requirement were directed to different statutory classes of invention, and not to subcombinations usable together.

Moreover, claims 6-12 contain the same different statutory classes of invention as were presented in the original application. Claims 6 and 7 are directed to a method of controlling one or more appliances whereas claims 8-12

are directed to an internet remote controller system for controlling one or more appliances.

Withdrawal of the previous restriction requirement is a clear indication that the original restriction requirement was improper and should have been withdrawn. Another clear indication that the original restriction requirement is improper is the statement that a restriction requirement is not necessary between claim set 6-7 and claim set 8-12.

Prosecution had to be re-opened to consider previously withdrawn claims 6 and 7.

Moreover, Applicants' amendment of claims 6 and 7 had nothing to do with, or in any way necessitate, the withdrawal of the restriction requirement.

In other words, Applicant's amendment did not necessitate the making of this rejection final. This rejection could not properly be made final because claims 6 and 7 were improperly withdrawn from consideration and were not rejected on their merits prior to the outstanding Office Action.

Under the circumstances, Applicant is entitled to present amendments under 37 CFR §1.111 to overcome this first-ever rejection of claims 6 and 7 on their merits.

Reconsideration and withdrawal of the finality of the outstanding rejection, and entry of this Amendment are respectfully requested.

Objection to claims 7, 8, 11 and 12

The Office Action objects to claims 7, 8, 11 and 12 for lacking clarity/being unclear. Applicants have amended claims 7, 8, 11 and 12 to obviate these objections based on the helpful suggestions of the Examiner.

Reconsideration and withdrawal of these objections are respectfully requested.

Rejection Under 35 U.S.C. §112, 2<sup>nd</sup> Paragraph

Claims 6 and 7 stand rejected under 35 U.S.C. §112, 2<sup>nd</sup> Paragraph, for lacking positive antecedent basis for certain claim terminology. This rejection is respectfully traversed.

Claims 6 and 7 have been amended to provide terms which have proper antecedent basis, thereby overcoming this rejection.

Reconsideration and withdrawal of this rejection is respectfully requested.

Rejection Under 35 U.S.C. §102

Claims 6-12 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,104,334 to Allport. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

Applicants respectfully submit that claim 6-12 recite features which are not disclosed or made obvious by the applied prior art reference.

The method claims 6 and 7 recite a combination of features, including attaching an additional memory to the remote controller to store appliance operating parameter data, and system claims, i.e., claims 8-12, recite a combination of features including a built-in memory to store at least part of the operating parameter data, an additional memory attached to the remote control unit to store appliance operating parameter data. Support for these features is found in Applicants' originally filed disclosure including, for example, page 7, lines 15-18. Allport clearly does not disclose these features.

In fact, Allport teaches away from using an additional memory attachable to its remote controller by focusing on the low cost of its remote control unit. An additional attachable memory device would increase the cost of Allport's remote controller, thereby dissuading one of ordinary skill in the art to modify Allport to provide such features.

Consideration and allowance of claims 6-12 are respectfully requested.

#### Additional Cited References

Because the remaining references cited by the Examiner have not been utilized to reject the claims, but have merely been cited to show the state of the art, no comment need be made with respect thereto.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Robert J. Webster, Registration No. 46,472, at (703) 205-8000, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

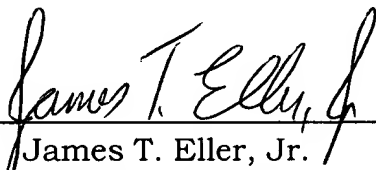
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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